

2



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,038	02/09/2001	Michael J. Wookey	P5783	8444
32658	7590	08/03/2004	EXAMINER	
HOGAN & HARTSON LLP ONE TABOR CENTER, SUITE 1500 1200 SEVENTEEN ST. DENVER, CO 80202			WOOD, WILLIAM H	
			ART UNIT	PAPER NUMBER
			2124	

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

2

<b>Advisory Action</b>	Application No. 09/780,038	Applicant(s) WOOKEY, MICHAEL J.	
	Examiner William H. Wood	Art Unit 2124	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 07 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-8, 10-14, 16-20 and 22-25.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
ANIL KHATRI  
PRIMARY EXAMINER

Continuation of 2. NOTE: Additional limitations of claim 1, including "after the receiving of the computing environment information", "after the loading of the installation tool", "after the first operating", and " wherein the computing environment information comprises thresholds based on configuration of the host device and the automated configuring comprises modifying the installed software payload based on the thresholds" will require further consideration and possible search..

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. The the broadest reasonable interpretation of the limitations of the independent claims does not require "post" configuration. The claims merely state the the installed software is configured with no indication of before or after installation. Applicant asserts "thresholds" not disclosed, however this term is sufficiently broad as to be disclosed by at least a version of something as previous mentioned (and not previously contested). In regard to claim 14, the previous office action explanation is still applicable. As for claim 18, Applicant is referred to previously stated argument. Furthermore, Applicant is reminded Cole and Goldband are used in combination. As for claim 25, commands are related to the installation of software from Cole and Goldband. All of Applicant's other repeated arguments were addressed in the previous office action (including Applicant' repeated request for prior art, which has already been cited). Thus, Applicant's arguments have been addressed and the rejection is not overcome.

Continuation of 2. NOTE: Newly added limitations "wherein the linkage service comprises an intermediary service routine between the calling program and the callee program" would require further consideration and very possibly further search..

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments were not persuasive. First, Applicant's phrasing of different register widths does not over come the rejections based upon the 370 and 390 systems, which clearly through differing addressing modes have differing register widths. Second, new limitations have been addressed above. All other arguments have been addressed in previous office action response..

*John Chavis*

JOHN CHAVIS  
PATENT EXAMINER  
ART UNIT 2124

Best Available Copy